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17 *Attorneys for Defendant*

18 FACEBOOK, INC.

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION
16

17 MAXIMILIAN KLEIN and SARAH GRABERT,
18 individually and on behalf of all others similarly
19 situated,

20 Plaintiffs,

21 v.

22 FACEBOOK, INC., a Delaware Corporation
23 headquartered in California,

24 Defendant.

Case No. 5:20-cv-08570-LHK

**DEFENDANT FACEBOOK, INC.'S
RESPONSE TO PLAINTIFFS'
MOTIONS TO APPOINT INTERIM
LEAD COUNSEL**

Judge: Hon. Lucy H. Koh

1 Defendant Facebook, Inc. takes no position on the relief sought in the motions for
 2 appointment of interim lead counsel for the putative user and advertiser classes, including
 3 Plaintiffs' apparent decision to propose separate leadership structures for the two classes. Dkt.
 4 Nos. 55-59. Facebook writes only to address two important issues raised by the motions.

5 *First*, to the extent Plaintiffs' proposal for separate leadership structures is intended to
 6 suggest that Plaintiffs want to file multiple complaints, it should be rejected. The Court's decision
 7 to consolidate the user and advertiser cases in view of the overlapping issues of law and fact raised
 8 across the complaints was correct and should not be disturbed, even if the Court elects to appoint
 9 separate leadership structures for the two classes. *See* Fed. R. Civ. P. 42(a). Many plaintiffs
 10 acknowledged this substantial overlap in their many filings seeking to relate these cases to one
 11 another. Dkt. Nos. 19, 34, 41, 49. Indeed, there are some plaintiffs that are both users and
 12 advertisers. Given the substantial overlap in allegations and theories, principles of efficiency and
 13 judicial economy counsel strongly in favor of a single complaint for all the consolidated cases.
 14 (To be certain, no counsel has identified any actual conflict between the putative classes in their
 15 respective motions, and they acknowledge that any conflicts that may emerge could be addressed
 16 later through appointment of separate interim class counsel, *see, e.g.*, Dkt. No. 55 at 25.)

17 *Second*, the submissions raise important issues relating to the role of counsel in related or
 18 similar cases and coordination between cases that Facebook and interim class counsel will need to
 19 confer on and discuss with the Court. *See, e.g.*, Dkt. No. 59 at 19 n.7 (noting Quinn Emanuel's
 20 representation of Google in "a lawsuit similar to this one"); Dkt. No. 55 (noting Keller Lenkner's
 21 representation of Texas, North Dakota, and Idaho (which States are all also involved in an antitrust
 22 action against Facebook) in the multi-state antitrust case against Google). Although it will
 23 undoubtedly be important for there to be some coordination with the lawsuits filed by the FTC and
 24 various State Attorneys General against Facebook in the District Court for the District of Columbia
 25
 26
 27
 28

1 to enhance efficiency and lessen the burdens on the parties and the Court,¹ the parties and the Court
2 will also need to closely manage information flow and access to confidential and strategic
3 information by the various counsel, consultants, experts, and others involved.

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5 Dated: March 10, 2021

Respectfully submitted,

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7 By: /s/ Sonal N. Mehta

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27 ¹ Both the FTC and State Attorneys General have designated most of these cases as related
28 to their cases. *See FTC v. Facebook, Inc.*, No. 1:20-cv-03590-JEB (D.D.C. filed Dec. 9, 2020),
Dkt. Nos. 4, 10, 28, 31, 44, 45, 52, 53, 54, 55; *New York v. Facebook, Inc.*, No. 1:20-cv-03589-
JEB (D.D.C. filed Dec. 9, 2020), Dkt. Nos. 5, 9, 14, 56, 85, 86, 109, 110.

CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2021, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System.

/s/ Sonal N. Mehta

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